

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LAUREL BEAR,)	4:05CV3283
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
JO ANNE B. BARNHART,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (filing 18). The defendant has filed a response (filing 19) stating that she has no objection to the application and requesting that the court award fees in the amount of \$4,726.05, the amount requested by Plaintiff, which represents 29.4 hours of work at \$160.75¹ per hour.

The court has determined that Plaintiff was indeed the prevailing party in this action, as this action was remanded to the Secretary for further action; that the application for fees was filed in a timely fashion²; and that the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

¹The maximum hourly fee of \$125.00 specified in 28 U.S.C. § 2412(d)(1)(D)(2)(A) was adjusted to account for inflation (Filing 18, Exs. C & D).

²An EAJA fee application based on a district court judgment remanding a case pursuant to sentence four of 42 U.S.C. § 405(g) must be filed within 90 days of the sentence-four judgment. Shalala v. Schaefer, 509 U.S. 292, 302 (1993).

IT IS ORDERED:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 18) is granted as to the requested \$4,726.05 in attorney fees;
2. By separate document, the court shall enter judgment for Plaintiff and against Defendant providing that Plaintiff is awarded attorney fees in the amount of \$4,726.05.

July 26, 2006.

BY THE COURT:
s/ *Richard G. Kopf*
United States District Judge